

3009.171-7 Contract award approval procedures for contractors with felony convictions.

(a) The HCA has sole discretion to approve a request to permit award of a contract for FPS guard services to a business concern owned, controlled, or operated by an individual convicted of a felony, for any reason permitted by this regulation. This authority is not delegable.

(b) A business concern owned, operated or controlled by an individual convicted of any felony (including a serious felony) may submit an award request to the contracting officer. The basis for such request shall be that the subject felony is not a serious felony as defined by this regulation; that such individual does not or no longer owns, controls or operates the business concern; or that the commission of a serious felony no longer poses the contract risk the Act and this regulation were designed to guard against. The business concern shall bear the burden of proof for award requests.

(c) A copy of the award approval request with supporting documentation or a previously approved award request shall be attached with the bid or proposal.

(d) An award approval request shall contain the basis for the request, including, at a minimum, the following information:

- (1) Name and date of birth of individual convicted of a felony;
- (2) A full description of which roles or interests indicate that the individual owns, controls, or operates, or may own control or operate the business concern;
- (3) Date sentenced;
- (4) Statute/Charge;
- (5) Docket/Case Number;
- (6) Court/Jurisdiction;
- (7) The nature and circumstances surrounding the conviction;
- (8) Protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct;
- (9) Whether the individual has made full restitution for the felony; and
- (10) Whether the individual has accepted responsibility for past misconduct resulting in the felony conviction.

(e) If the contracting officer is unable to affirmatively determine that the subject felony is not a serious felony as defined in (HSAR) 48 CFR 3009.171-5; that such individual no longer owns, controls or operates the business concern; or that the commission of a serious felony no longer calls into question the individual or business concern's integrity or business ethics and would be consistent with the mission of FPS, then the contracting officer shall deny the award approval

request and not forward such request to the HCA.

(f) For a felony that meets any of the following conditions, the contracting officer shall refer the award request, with a copy of the contracting officer's determination, to the HCA with a recommendation for approval:

(1) The subject felony is not a serious felony as defined by this regulation;

(2) The convicted individual does not or no longer owns, controls or operates the business concern;
or

(3) The commission of a serious felony no longer calls into question the individual or business concern's integrity or business ethics and that an award would be consistent with the mission of the FPS.

(g) The HCA shall make a final written decision on the award approval request following referral and after any necessary additional inquiry.

Parent topic: Subpart 3009.1—Responsible Prospective Contractors